



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

MAR 31 2009

CERTIFIED MAIL 7008 1140 0003 1135 2732  
RETURN RECEIPT REQUESTED

Mr. Don Cope  
President and Chief Executive Officer  
Dalton Utilities  
1200 V.D. Parrott Jr. Parkway  
Dalton, Georgia 30721

Re: Administrative Order No. CWA-04-2009-4777  
Dalton Utilities

Dear Mr. Cope:

Pursuant to Section 309(a) of the Clean Water Act (CWA), as amended, the Director, Water Protection Division, Region 4, the U.S. Environmental Protection Agency (EPA), has determined that the above named facility is in violation of Section 405 of the CWA. As a result, the Director has issued the enclosed Section 309 Order.

This Order is issued to enforce existing requirements under the CWA and therefore, does not replace, modify or eliminate any other requirement of the CWA. Notwithstanding the issuance of this Section 309(a)(5) Order, the EPA retains the right to bring further enforcement action under Section 309(d) or 309(g) of the CWA, for the violations cited in this Order and for any other violation of the CWA. Violations of the CWA, including requirements contained in a National Pollutant Discharge Elimination System (NPDES) permit or a Section 309(a)(5) Order, remain subject to a civil penalty of up to \$37,500 per day for each violation, pursuant to Sections 309(d) or 309(g) of the CWA, 33 U.S.C. §§ 1319(d) or 1319(g), as amended by the *Civil Monetary Penalty Inflation Adjustment Rule*, 73 Fed. Reg. 75340 (December 11, 2008). Such violations may also be subject to criminal penalties pursuant to Section 309(c) of the CWA, 33 U.S.C. § 1319(c).

Enclosed is a document entitled "*U.S. EPA Small Business Resources-Information Sheet*" for your use and to assist you in understanding the compliance assistance resources and tools available. However, any decision to seek compliance assistance at this time does not relieve you of your obligation to EPA, does not create any new rights or defenses, and will not affect EPA's decision to pursue enforcement action.

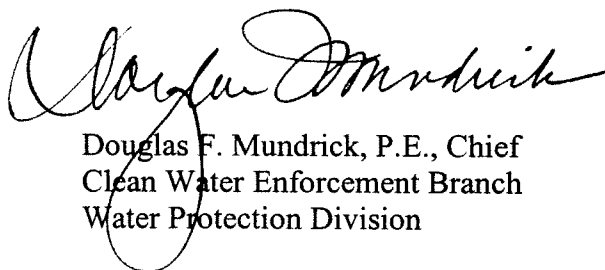
Dalton Utilities shall preserve until further notice all records (either written or electronic) which exist at the time of receipt of this Order that relate to any of the matters set forth in this Order. The term "records" shall be interpreted in the broadest sense to include information of every sort. The response to this information request shall include assurance that these record

protection provisions were put in place, as required. No such records shall be disposed of until written authorization is received from the Chief of the Clean Water Enforcement Branch at the U.S. EPA, Region 4.

If you believe that any of the requested information constitutes confidential business information, you may assert a confidentiality claim with respect to such information except for effluent data. Further details, including how to make a business confidentiality claim, are found in Enclosure A.

Should you have any questions concerning the enclosed Order, please contact Mr. Christopher Plymale, Chief of the East Enforcement Section at (404) 562-9794.

Sincerely,

A handwritten signature in black ink, appearing to read "Douglas F. Mundrick". The signature is fluid and cursive, with the first name "Douglas" being more prominent and the last name "Mundrick" following in a similar style. The signature is positioned above the printed name and title.

Douglas F. Mundrick, P.E., Chief  
Clean Water Enforcement Branch  
Water Protection Division

Enclosures

cc: Dr. Carol A. Couch, Environmental Protection Division  
Dr. Bert Langley, Environmental Protection Division  
Mountain District



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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MAR 31 2009

**CERTIFIED MAIL** 7003 1680 0001 0750 3261  
**RETURN RECEIPT REQUESTED**

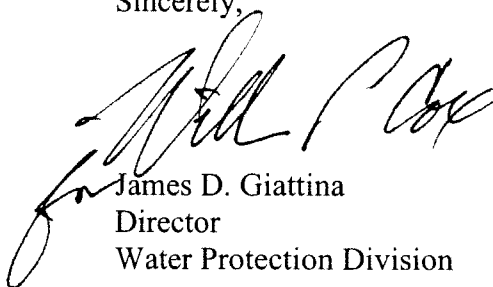
Dr. Carol A. Couch  
Director  
Environmental Protection Division  
Georgia Department of Natural Resources  
2 Martin Luther King Jr. Drive SE  
Suite 1152 East Tower  
Atlanta, Georgia 30334

Re: Administrative Order No. CWA-04-2009-4777  
Dalton Utilities

Dear Dr. Couch:

Pursuant to Section 309(a) of the Clean Water Act (CWA), 33 U.S.C. § 1319(a), I have determined that the above referenced facility is in violation of Section 405(e) of the CWA, 33 U.S.C. § 1345(e). As a result, I have issued an Administrative Order (AO), a copy of which is enclosed for your reference. The AO is presently being served.

Sincerely,



James D. Giattina  
Director  
Water Protection Division

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

IN THE MATTER OF:	) <b>ADMINISTRATIVE ORDER</b>
	)
Dalton Utilities	)
Dalton, Georgia	) <b>DOCKET NO. CWA-04-2009-4777</b>
	)
	)
_____	)

**I. STATUTORY AUTHORITY**

1. Section 309(a)(3) of the Clean Water Act (“CWA”), 33 U.S.C. § 1319(a)(3), provides that, whenever the Administrator of the U.S. Environmental Protection Agency (“EPA”) finds that any person is in violation of any condition or limitation which implements, *inter alia*, Section 405 of the CWA, 33 U.S.C. § 1345, he shall issue an order requiring such person to comply with such condition or limitation.
2. The following Findings are made and Order issued pursuant to the authority vested in the Administrator of the EPA by Sections 308(a) and 309(a)(3) of the CWA, 33 U.S.C. §§ 1318(a) and 1319(a)(3), as amended. This authority has been delegated to the Regional Administrator of EPA, Region 4, and further delegated by the Regional Administrator to the Director of the Water Protection Division, EPA, Region 4.

**II. FINDINGS**

3. Dalton Utilities, Dalton, Georgia (“Respondent”), is a “municipality” duly formed and existing under the laws of the State of Georgia and, therefore, a “person” within the meaning of Sections 502(4) and 502(5) of the CWA, 33 U.S.C. §§ 1362(4) and 1362(5), and 40 Code of Federal Regulations (CFR) §§ 503.9(o) and (q).
4. At all times relevant to this action, Respondent owned and/or operated a Publicly Owned Treatment Works (POTW), located at 924 Loopers Bridge Road, Dalton, Georgia, with a design flow rate equal to or greater than one million gallons per day, and is a “treatment works” as defined in 40 CFR § 503.9(aa).
5. Respondent is a “person who prepares sewage sludge” as defined in 40 CFR § 503.9(r), as either the person who generates sewage sludge during the treatment of domestic sewage in a treatment works or the person who derives a material from sewage sludge, and is therefore subject to the requirements of the CWA and 40 CFR Part 503.

6. Section 405(e) of the CWA, 33 U.S.C. § 1345(e), makes it unlawful for any person to dispose of sludge from a treatment works treating domestic sewage except in accordance with regulations promulgated pursuant to Section 405(d) of the CWA, 33 U.S.C. § 1345(d), which are found at 40 CFR Part 503.
7. 40 CFR Part 503 establishes standards for the use and disposal of sludge, and consists of general requirements, pollutant limits, management practices, operational standards, frequency of monitoring requirements, recordkeeping requirements, and reporting requirements, for the final use or disposal of sewage sludge generated during the treatment of domestic sewage in a treatment works.
8. 40 CFR Part 503 applies to any person who prepares sewage sludge and to any person who applies sewage sludge to the land. See 40 CFR § 503.1(b). The land application requirements found at 40 CFR Part 503 Subpart B apply to any person who prepares sewage sludge that is applied to the land and to any person who applies sewage sludge to the land. See 40 CFR § 503.10(a).
9. Based on information obtained and reviewed which outlines Respondent's sewage sludge disposal practices, Respondent disposes of sewage sludge via land application.
10. Pursuant to 40 CFR § 503.18, POTWs with a design flow rate equal to or greater than one million gallons per day shall submit certain information to the permitting authority on February 19<sup>th</sup> of each year. This information is hereinafter referred as the "annual sludge report."
11. The Respondent failed to submit their annual sludge reports to EPA, as per 40 CFR § 503.18.
12. Therefore, EPA, Region 4 has determined that Respondent has violated Section 405(e) of the CWA, 33 U.S.C. § 1345(e), by violating the reporting requirements outlined in 40 CFR § 503.18.

### **III. ORDER**

13. Based on the foregoing Findings and pursuant to the authority of Sections 308 and 309(a) of the CWA, 33 U.S.C. §§ 1318 and 1319(a), IT IS HEREBY ORDERED that Respondent comply with the following requirements. Pertaining to the Respondent's operations in the treatment and disposal of sewage sludge as defined in 40 CFR Part 503.9(w), within thirty days of receipt of this Order, the Respondent shall:
  - a. Provide the name and location of Respondent's POTW, a narrative description of the wastewater treatment train, including but not limited to, the design flow capacity, the number of persons served, and the method of wastewater effluent disposal. A wastewater treatment train is a system of more than one specific wastewater treatment processes or devices that are required to treat effluent.

- b. Provide a narrative description of the sludge treatment process train at each Respondent's POTW, and of the treatment and disposal methods of sewage sludge in accordance with CFR Part 503.
- c. Provide the amount of sewage sludge generated, in dry metric tons (dmt) from each Respondent's POTW and the disposal amount, disposal methods and disposal locations for each calendar year from 1999 through the present.
- d. Provide copies of all sample results and its chain of custody record of the sewage sludge disposed for hazardous sewage sludge characteristics, as defined in 40 CFR § 503.6(e), and polychlorinated biphenyls (PCBs), as defined in 40 CFR § 503.6(f), from calendar year 1999 through the present.
- e. For sewage sludge disposed at a municipal solid waste landfill unit subject to 40 CFR Part 258, provide copies of all sample results and its chain of custody record of the Paint Filter Test and the Toxicity Characteristic Leaching Procedure Test, and any and all other analytical data of the sewage sludge disposed at a municipal solid waste landfill from calendar year 1999 through the present.
- f. For sewage sludge disposed subject to 40 CFR Part 503, provide pathogen reduction and vector attraction reduction documentation in accordance with 40 CFR 503 Subpart D from calendar year 1999 through the present.
- g. For sewage sludge disposed subject to 40 CFR Part 503, provide inorganic pollutant documentation in accordance with 40 CFR § 503.13, from calendar year 1999 through the present.
- h. Provide copies of any and all other sewage sludge characteristics, including but not limited to nutrients, pH, priority pollutant scan, from calendar year 1999 through the present.
- i. For purposes of this Order, the term "perfluorinated compounds (PFCs)" shall mean fluorinated or perfluorinated chemicals including, but not limited to, fluoropolymers or fluoropolymer dispersions and any of the following compounds with perfluorochain lengths between 4 and 16 carbons: carboxylates (such as perfluorooctanic acid (PFOA)), amines, ethers, iodides, phosphonic/phosphinic compounds, alcohols, esters, phosphates, sulfonates (such as perfluorooctyl sulfonate (PFOS)), siloxanes, thioethers, urethanes, and acrylates. Provide any studies, analytical data or monitoring results indicating the presence of PFCs or fluoride in the sewage sludge, from calendar year 1999 through the present.
- j. Provide a copy of Respondent's current operating State of Georgia permit to dispose biosolids or sewage sludge, as defined in Georgia Rule 391-3-6-.17 and a copy of Respondent's most recent permit application for a biosolids permit.
- k. Provide a copy of Respondent's State approved Sludge Management Plan.

- l. Provide a copy of all current agreements or contracts with third party preparers and appliers who receive the Respondent's sewage sludge.
  - m. Provide a copy of the notice and necessary information, as outlined in 40 CFR § 503.12, provided to the third party preparer or applier who receives the Respondent's sewage sludge.
  - n. For sewage sludge disposed subject to the State of Georgia biosolids permit, provide copies of monitoring data and reports submitted to the State of Georgia from calendar year 1999 through the present.
  - o. For sewage sludge disposed subject to 40 CFR Part 503, provide the annual sludge reports, subject to 40 CFR § 503.18(a), from calendar year 1999 through the present.
14. Respondent must submit a request for any extension of time necessary to comply with the requirements of this Order in writing, and must include the reasons for the extension request and a date when compliance will be achieved. Any extension granted must be made by EPA in writing.
15. All reports, notifications, documentation and submittals required by this Order shall be signed by a duly authorized representative of the Respondent as specified by 40 CFR §§ 122.22(b)(2) and (d) and shall include the following statement:
- “I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”
16. All reports, notifications, documentation and submittals required by this Order shall be sent by certified mail or its equivalent to the following address:

Douglas F. Mundrick, P.E., Chief  
ATTN: Michael Hom, Environmental Engineer  
Clean Water Enforcement Branch  
Water Protection Division  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, SW  
Atlanta, GA 30303-8960

#### **IV. GENERAL PROVISIONS**

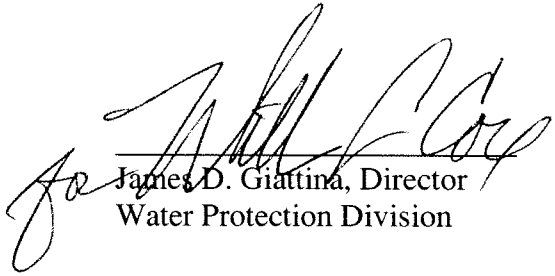
17. Failure to comply with the requirements herein shall constitute a violation of this Order and the CWA, and may subject Respondent to penalties as provided in Section 309(d) of the CWA, 33 U.S.C. § 1319(d).
18. This Order shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit. Compliance with this Order shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by EPA.
19. Nothing in this Order shall be construed as prohibiting, altering, or in any way limiting the ability of the United States to seek any other remedies or sanctions available by virtue of Respondent's violation of this Order or of the statutes and regulations upon which this Order is based, or for Respondent's violation of any federal or state statute, regulation or permit.
20. Nothing in this Order is intended to nor shall be construed to operate in any way to resolve any criminal liability of Respondent, or other liability resulting from violations that were not alleged in this Order. The United States does not waive any right to bring an enforcement action against Respondent for violations of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.
21. This Order applies to and is binding upon Respondent and its officers, directors, employees, agents, successors and assigns.
22. Any change in the legal status of Respondent's POTW, including but not limited to any transfer of assets of real or personal property, shall not alter Respondent's responsibilities under this Order.
23. Pursuant to Section 309(a)(4) of the CWA, 33 U.S.C. § 1319(a)(4), EPA has sent a copy of this Order to the State of Georgia.
24. The provisions of this Order shall be deemed satisfied upon a determination by EPA that Respondent has fully completed and implemented the actions required by this Order.



**V. EFFECTIVE DATE**

25. The effective date of this Order shall be the date upon which it is received by Respondent.

**IT IS SO ORDERED,  
BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 4:**

  
James D. Giattina, Director  
Water Protection Division

Date: MAR 31 2009

## **Enclosure A**

### **RIGHT TO ASSERT BUSINESS CONFIDENTIALITY CLAIMS (40 C.F.R. Part 2)**

Except for effluent data, you may, if you desire, assert a business confidentiality claim as to any or all of the information that EPA is requesting from you. The EPA regulation relating to business confidentiality claims are found at 40 C.F.R. Part 2.

If you assert such a claim for the requested information, EPA will only disclose the information to the extent and under the procedures set out in the cited regulations. If no business confidentiality claim accompanies the information, EPA may make the information available to the public without any further notice to you.

40 C.F.R. §2.203(b). **Method and time of asserting business confidentiality claim.** A business which is submitting information to EPA may assert a business confidentiality claim covering the information by placing on (or attaching to) the information, at the time it is submitted to EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," "proprietary," or "company confidential." Allegedly confidential portions of otherwise non-confidential documents should be clearly identified by the business, and may be submitted separately to facilitate identification and handling by EPA. The notice should state if the business desires confidential treatment for only until a certain date or until the occurrence of a certain event.